

NOTICE OF PROPOSED EMERGENCY AMENDMENT TO TITLE 15, MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES AND MINIMUM STANDARDS FOR LOCAL JUVENILE FACILITIES, CALIFORNIA CODE OF REGULATIONS, BY THE STATE CORRECTIONS STANDARDS AUTHORITY

TITLE 15. CORRECTIONS STANDARDS AUTHORITY

Pursuant to Penal Code Sections 6030 (e) (f) and 5007.7 and Welfare and Institutions Code Section 222, the State Corrections Standards Authority (CSA) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the CSA to amend and adopt the regulations contained in Title 15, Division 1, Subchapter 4, California Code of Regulations (known as the Minimum Standards for Local Detention Facilities) and Title 15, Division 1, Subchapter 5, California Code of Regulations (known as the Minimum Standards for Juvenile Facilities), after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

The CSA will hold the following public hearing:

DATE: July 21, 2008

TIME: 10:00 AM – 12:00 Noon

LOCATION San Diego Sheriff's Department Headquarters
9621 Ridgehaven Court
San Diego, CA 92123

This location is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The CSA requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will remain open only as long as persons in attendance are presenting testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the CSA. The written comment period closes at **5:00 pm on July 6, 2008**. The CSA will consider only comments received at CSA offices by that time. Submit comments to:

Rebecca Craig, Field Representative
600 Bercut Drive
Sacramento, CA 95814
Phone: (916) 324-2600
rebecca.craig@cdcr.ca.gov
Fax: (916) 327-3317

AUTHORITY AND REFERENCE

Penal Code Section 6030 and Welfare and Institutions Code Sections 210 and 885 authorizes the CSA to adopt and amend the proposed regulations, which would implement, interpret, or make specific Sections 6030(e) (f) and 5007.7 of the Penal Code and Section 222 of the Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CSA proposes to adopt Section 1417, and amend sections 1029, 1206, 1248, 1357, 1358 and 1461 of Title 15 of the California Code of Regulations. New statutory language includes specific mandates requiring that pregnant adults and minors have a balanced, nutritious diet and vitamins recommended by a doctor; requires facilities to provide education regarding childbirth and infant care; and prohibits restraint while in labor, during transport, delivery and in recovery after giving birth pursuant to Penal Code Sections 6030 (e) (f) and 5007.7, and Welfare and Institutions Code Section 222.

Summary of Existing Laws

Title 15 regulations discuss the management of pregnant adults and minors; however, the current regulations leave the specific components of care to be defined by the nurses and physicians at a facility in cooperation with the facility administrator. Penal Code Sections 6030 (e), (f) and 5007.7 and Welfare and Institutions Code Section 222 require that CSA develop additional regulations specific to the management of pregnant adults and minors confined in correctional facilities. Penal Code Section 6030 (e) requires that inmates who are received by the facility while they are pregnant are provided all of the following:

- (1) A balanced, nutritious diet approved by a doctor.
- (2) Prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.
- (3) Information pertaining to childbirth education and infant care.

Penal Code Section 6030 (f) provides that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both including during transport to a hospital, during delivery, and while in recovery after giving birth, except as provided in Penal Code Section 5007.7.

Section 222 (b) of the Welfare and Institutions Code requires that a ward shall not be shackled by the wrists, ankles, or both during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, subject to the security needs described in this section. Pregnant wards temporarily taken to a hospital outside the facility for the purposes of childbirth shall be transported in the least restrictive way possible, consistent with the legitimate security needs of each ward. Upon arrival at the hospital, once the ward has been declared by the attending physician to be in active labor, the ward shall not be shackled by the wrists, ankles, or both, unless deemed necessary for the safety and security of the ward, the staff, and the public.

Summary of Existing Regulations

Existing standards that prescribe requirements for local adult and juvenile detention facilities are promulgated by the Corrections Standards Authority. These regulations are contained in Title 15—Crime Prevention and Corrections, Division 1, Chapters 1, Subchapters 4 and 5 of the California Code of Regulations (CCR).

Summary of Effect

The proposed action would update Title 15, Division 1, Chapter 1, Subchapters 4 and 5 CCR adopting new and revised language to implement statute requiring the special management of pregnant adults and minors. The proposed action adds statutory requirement found in Penal Code Sections 6030 (e), (f) and 5007.7 and Welfare and Institutions Code Section 222 as it pertains to diet, vitamins, education regarding childbirth and infant care, and limitations on the use of restraints for pregnant adults and minors.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to update regulations for local adult and juvenile detention facilities in conformance with statutory changes.

Minimum Standards for Local Detention Facilities:

Section 1029. Policy and Procedures Manual. This regulation outlines the policy and procedures that must be included in a facility's manual. The recommended change incorporates the requirements of Penal Code Section 6030 (f), which deals with restraining pregnant inmates.

Section 1206. Health Care Procedures Manual. This regulation illustrates what policies and procedures must be contained in a facility's health care procedures manual. The recommended revisions would add provisions required by Penal Code Section 6030 (e), 2 and 3.

Section 1248. Medical Diets. This regulation describes the requirements for medical diets for inmates in custody. The recommended revision incorporates the requirements of Penal Code Section 6030 (e), 1.

Minimum Standards for Local Juvenile Facilities:

Section 1358. Use of Physical Restraints. This regulation describes the requirements for the use of physical restraints on minors in custody. The regulation currently states that it does not apply to the use of restraints (handcuffs, shackles, etc.) when used to restrain minors for movement or transportation. The new language emphasizes that restraints (handcuffs, shackles, etc.) on pregnant minors is limited by statutory language.

Section 1461. Minimum Diet. This regulation describes the requirements for the minimum diet for minors in custody. It also requires a supplemental snack for pregnant minors if medically indicated. The new language requires a balanced and nutritious diet approved by a doctor as required by statute. This currently occurs in local juvenile facilities.

Section 1417. Pregnant Minors. This new regulation adds statutory requirements found in Penal Code Section 6030 (e) and Welfare and Institutions Code Section 222 as it pertains to diet, vitamins, education, and limitations regarding the use of restraints for pregnant minors.

Section 1357. Use of Force. This regulation describes the requirements for the use of force in local juvenile facilities. The regulation applies to the use of restraints (handcuffs, shackles, etc.) for movement, transportation, or for safety purposes. The new statutory language limiting the

use of restraints is included in this section to assure that these limitations are included when crafting policies and procedures for the use of force.

DISCLOSURE REGARDING THE PROPOSED ACTION

The CSA has made the following initial determinations:

Mandate on local agencies and school districts: Yes.

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: Yes

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The CSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) Create or eliminate jobs within California.
- (2) Create new businesses or eliminate existing businesses within California.
- (3) Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small Business Determination:

The CSA has determined that the proposed regulations will have no affect on small businesses. These proposed regulations affect the operations and programs for local adult and juvenile detention facilities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CSA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The CSA invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearings or during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Rebecca Craig, Field Representative
600 Bercut Drive
Sacramento, CA 95814
Phone: (916) 324-2600
rebecca.craig@cdcr.ca.gov
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Or

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Questions on the substance of the proposed regulations may be directed to Ms. Craig or Mr. Bertram.

Please direct requests for copies of the proposed text of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Ms. Craig at the above contact information.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Initial Statement of Reasons and text of the proposed regulations, as well as the rulemaking file, which includes all the information on which this proposal is based, is available for viewing at the CSA's office at the above address.

AVAILABILITY OF MODIFIED TEXT

If the CSA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the CSA adopts the regulations as revised.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be accessed through the CSA website at www.csa.ca.gov. Those persons who do not have access to the Internet may submit a written request to Rebecca Craig at the above address.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in ~~strikeout~~ and underline can be accessed through our website at www.csa.ca.gov. Those persons who do not have access to the Internet may submit a written request to Rebecca Craig at the above address.